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BOOK REVIEW

The Louisiana State Constitution: A Reference Guide,
by Lee Hargrave. New York: Greenwood Press, 1991.
Pp. 241. \$55.

A. Edward Hardin*

The Greenwood Press is the pre-eminent publisher of state constitutional materials. The commissioning of Lee Hargrave, Louisiana's most distinguished constitutional scholar, to represent Louisiana in the Reference Guide Series is appropriate. This book fills the gap in the national literature occasioned by widespread state constitutional revisions of the 1960's and early 1970's.¹ This series, together with Greenwood Press publications of state convention proceedings, are primary tools for political science, philosophical and legal exegesis and constitutional research for the last quarter of the twentieth century.²

The Hargrave work lends the flavor of a "James Madison Journal." Like Madison, Hargrave is not merely a detached scholar but rather

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1. For example, see R. Connors, *The Process of Constitutional Revision in New Jersey: 1940-1947* (National Municipal League, State Constitutional Convention Series No. 4, 1970); John P. Wheeler, Jr., editor, *Salient Issues of Constitutional Revision* (National Municipal League, 1961). These works, funded through a Ford Foundation grant, are numbers in two series offering a political science view of the processes of constitution making together with some historical overview. The Reference Guide series has, to date, concentrated on successful revisions rather than failed efforts. G. Alan Tarr, general editor of the series, notes since "1960 ten states . . . have adopted new constitutions. . . ." The Louisiana State Constitution: A Reference Guide, at xviii. Louisiana is thus part of the main stream of state constitutionalism.

2. Professor Hargrave reviews the historical and legal sources of Louisiana Constitutional Law in Part I of this volume. The brevity of this section and its orientation to political history provide an excellent capsule of information. What is lost is the impact of the material received by the Constitutional Convention of 1973. It was the beneficiary of the work of the Louisiana Law Institute prepared as *A Projet of a Constitution* and maintained by the Secretary of State for distribution to delegates from the time of its publication in 1954 until the Convention was called to order in 1973. In many respects a model of Louisiana politics of self-interest, the *Projet* was an invaluable tool in both the historical and practical development of our present constitution.

was a participant in the legal/political drama of the Louisiana Constitutional Convention of 1973.³ His insights into the various articles and sections are therefore more persuasive, despite the brevity of the analysis, than those of other commentators who did not experience the Constitutional Convention of 1973 on a daily basis.⁴

This book is arranged in the tradition of the glossators with a brief reflection on each section of the constitution. In an older printed tradition the analysis would have appeared as marginal notes. This "petite gloss" is bracketed by a preface, an historical review and a bibliographical essay. These "brackets" are important not only for their content but also because of the growing legal awareness of the importance of legal history in sound exegesis. From those chapters the legal scholar and practicing attorney can find guidance to the historical record of the constitutional convention, an archival process in which Professor Hargrave participated.⁵ Effectively this volume is a Process of a treatise on Louisiana Constitutional Law.

Sufficient time has passed since the adoption of the constitution to allow for the full maturation of the judgments of legal and historical scholarship. No one in the field is better equipped for the task of the

3. The Louisiana State Constitution : A Reference Guide, at xxi. Having "been there" is a bit of modest understatement on Professor Hargrave's part. His participation in the process of drafting and the adoption of the provisions of Articles I, II, V, XI, XII, XIII and XIV was of critical importance in the shaping of the document finally adopted by the Convention and the people. Not only did he provide "substantive" support to the committees on Bill of Rights and Elections and the Judiciary Committee, his contribution to committee on Style and Drafting, chaired by Justice Albert Tate was significant. From Style and Drafting Louisiana has established the primary rules of constitutional interpretation in use today. (See, for example, Board of Elementary and Secondary Educ. v. Nix, 347 So. 2d 147 (La. 1977)).

4. See Hargrave, The Declaration of Rights of the Louisiana Constitution of 1974, 35 La. L. Rev. 1 (1974); Hargrave, The Judiciary Article of the Louisiana Constitution of 1974, 37 La. L. Rev. 765 (1977); Hargrave, "Statutory" and "Hortatory" Provisions of the Louisiana Constitution of 1974, 43 La. L. Rev. 647 (1983) for the more fulsome style of the Hargrave literature. These articles form the core for research in the Constitutional articles they embrace. Professor Hargrave brings together in them articulate, reasoned insights that are the core of reasoned exegesis. These writings have so influenced our courts that they have been cited in over 100 cases. "Professor Hargrave says . . ." is the preface of many Louisiana constitutional briefs, arguments and opinions. The other literature cited at 221 has not been so received.

5. Professor Hargrave was a member of the Louisiana Constitutional Convention Records Commission under whose auspices the Records of the Louisiana Constitutional Convention of 1973 were published. See La. Acts 1972 Act 2, as amended, 1974, reproduced in Vol. I of West's Louisiana Constitution Annotated, at 154 (1977). During its tenure and prior to publication of the documents, the Commission as custodian of the records produced by the convention was "keeper of the constitution" and provided the historical documents on every major constitutional case decided from 1974 through 1978. These documents remain important exegidical tools for teachers, judges and lawyers today.

“grand gloss” than Professor Hargrave who brings the proper balance of knowledge and experience to such a task. There should be a true treatise on the Louisiana Constitution to assist practitioners in their labors in the field. What is needed is a reflection on the constitution as a document together with its jurisprudence indicating its assimilation into the common body of legal knowledge. That assimilation is an underlying goal of this generation of state constitutional scholars. Justice Albert C. Tate, of blessed memory, bequeathed a constitutional legacy to Professor Hargrave, myself, and a generation of students whom he influenced. “We need to learn to think constitutionally,” he often said. That dogma coming from behind a cloud of smoke wreathed in a green accountant’s eyeshade is more easily adhered to with the proper jurisprudential and scholarly tools.⁶ What that demands today is filling the gap in our resources with the publication of the constitutional volume in the West series of Civil Law Treatises. The current work is but a preliminary step in that process.

6. Judge Tate was a delegate to the Constitutional Convention of 1973 and served not only on the Judiciary Committee but as chairman of the committee on Style and Drafting. From that position he with the advice and counsel of Professor Hargrave molded the document to provide an uncommon consistency in usage, in language, and ultimately in the rules of constitutional construction. (See especially, I Records of the Louisiana Constitutional Convention of 1973, at 769-771, where the “Manual of Style and Drafting” is reproduced. *Board of Elementary and Secondary Educ. v. Nix*, 347 So. 2d 147 (La. 1977) has been cited as constitutional construction authority in every major case decided by the Louisiana Supreme Court since it was authored by Justice Tate.

